

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**SAN DIEGO COUNTY WATER AUTHORITY
4677 OVERLAND AVENUE
SAN DIEGO, CALIFORNIA 92123**

**BRADLEY PARK PIPELINES 3 & 4
RELOCATION PROJECT
WDID NO. 9 000001027**

**NONCOMPLIANCE WITH ORDER NO. R9-2001-
0096, NPDES NO. CAG919002, GENERAL
WASTE DISCHARGE REQUIREMENTS FOR
GROUNDWATER EXTRACTION WASTE
DISCHARGES FROM CONSTRUCTION,
REMEDICATION, AND PERMANENT
GROUNDWATER EXTRACTION PROJECTS
TO SURFACE WATERS WITHIN THE SAN
DIEGO REGION, EXCEPT FOR SAN DIEGO
BAY**

**COMPLAINT NO. R9-2004-0077
FOR**

**ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES**

MARCH 9, 2004

SAN DIEGO COUNTY WATER AUTHORITY IS HEREBY GIVEN NOTICE THAT:

1. The San Diego County Water Authority is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code section 13385 et seq.
2. A public hearing on this matter is tentatively scheduled before the Regional Board on May 12, 2004, at the City of Laguna Beach Council Chambers, 505 Forest Avenue, Laguna Beach, California. The meeting will begin at 9:00 a.m. At the hearing, the San Diego County Water Authority will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. Additional notice of this public hearing and the hearing procedures will be provided to the San Diego County Water Authority prior to the hearing date with the agenda for the Regional Board meeting.
3. At the hearing, the Regional Board will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

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ALLEGATION

4. On December 9, 2003 the San Diego County Water Authority violated Order No. R9-2001-0096, *NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay*. These violations are due to exceedances of the Total Nitrogen and Manganese Instantaneous Maximum Effluent Limitations as reported in the December 2003 Monthly Monitoring Report. The San Diego County Water Authority also violated Order No. R9-2001-0096 on December 31, 2003 due to exceedances of the Total Nitrogen and Total Phosphorus Average Monthly Effluent Limitations as reported in the December 2003 Monthly Monitoring Report. The submitted December 2003 Monthly Monitoring Report was incorrectly labeled November 2003.
5. The following facts are the basis for the alleged violation in this matter:
 - a. The San Diego County Water Authority is solely responsible for the Bradley Park Pipelines 3 & 4 Relocation Project located in the vicinity of Rancho Santa Fe Road and Linda Vista Street, San Marcos, California. On July 10, 2003, the Regional Board enrolled The San Diego County Water Authority under Order No. R9-2001-0096 (WDID No. 9 000001027) to temporarily discharge groundwater to San Marcos Creek, an inland surface water.
 - b. The Discharge Specifications' section of Order No. R9-2001-0096 states that the Instantaneous Maximum Effluent Limitation for "Discharges to Inland Surface Waters" is 2 mg/L for Total Nitrogen and 0.05 mg/L for Manganese. On December 31, 2003, the Regional Board received the San Diego County Water Authority's December 2003 monthly monitoring report with results of sampling on December 9, 2003 of 2.5 mg/L of Total Nitrogen, 0.091 mg/L of Manganese and 0.14 mg/L of Total Phosphorus. Therefore the San Diego County Water Authority violated the Instantaneous Maximum Effluent Limitation for Total Nitrogen by 25% and Manganese by greater than 40%.
 - c. The Discharge Specifications' section of Order No. R9-2001-0096 states that the Average Monthly Effluent Limitation for "Discharges to Inland Surface Waters" is 1 mg/L for Total Nitrogen and 0.1 mg/L for Total Phosphorus. No other Total Nitrogen or Total Phosphorus results were reported for December 2003. Thus the Average Monthly Effluent Limitation of December 2003 for Total Nitrogen was at least 2.5 mg/L, more than 40% greater than the Effluent Limitation, and for Total Phosphorus was at least 0.14 mg/L, 40% greater than the Effluent Limitation.
 - d. Water Code Section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste

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discharge requirements for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Total Nitrogen, Total Phosphorus and Manganese are Group 1 pollutants.


6. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Therefore the amount of the mandatory minimum penalty that must be assessed for the three serious violations is \$9,000.
7. Water Code Section 13385(i)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:
 - Violates a waste discharge requirement effluent limitation.
 - Fails to file a report pursuant to Water Code Section 13260.
 - Files an incomplete report pursuant to Water Code Section 13260.
 - Violates a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The Total Nitrogen Instantaneous Maximum Effluent Limitation violation, supported by the three serious violations results in the assessment of \$3,000.

PROPOSED CIVIL LIABILITY

8. Pursuant to Section 13385 of the Water Code a mandatory minimum penalty should be imposed on the San Diego County Water Authority by the Regional Board in the amount of \$12,000, the amount of the mandatory minimum penalty, for the above violations.

Dated this 9th day of March 2004.


JOHN H. ROBERTUS
Executive Officer



California Regional Water Quality Control Board

San Diego Region



Terry Tamminen
Secretary for
Environmental
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.swrcb.ca.gov/rwqcb9>

Arnold Schwarzenegger
Governor

March 9, 2004

Certified Mail Return Receipt Requested
7003 1680 0000 7393 6582

Ms. Maureen Stapleton
General Manager
San Diego County Water Authority
4677 Overland Avenue
San Diego, California 92123

In reply refer to: **CA:14-1027.02:melbf**

Attn: Mr. Gary Bousquet

Dear Ms. Stapleton:

Complaint No. R9-2004-0077 for Administrative Civil Liability for Mandatory Minimum Penalties Under Water Code § 13385, Violation of Order No. R9-2001-0096, NPDES No. CAG919002

Bradley Park Pipelines 3 & 4 Relocation Project, WDID No. 9 000001027

California Regional Water Quality Control Board, San Diego Region (Regional Board) records indicate that in December 2003, as an enrollee in Regional Board Order No. R9-2001-0096, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay*, the San Diego County Water Authority discharged extracted groundwater to San Marcos Creek from the Bradley Park Pipelines 3 & 4 Relocation project, Rancho Santa Fe Road and Linda Vista Street, San Marcos, California. The San Diego County Water Authority's December 2003 monitoring report¹ indicated that groundwater discharged from this project exceeded the following effluent limitations as shown below:

Date	Constituent	Reported Concentration	Effluent Limitation	Type of Limitation	Percent Exceedance
December 9, 2003	Manganese	0.091 mg/L	0.05 mg/L	Instantaneous Maximum	>40%
December 9, 2003	Total Nitrogen	2.5 mg/L	2 mg/L		25%
December 31, 2003	Total Nitrogen	2.5 mg/L	1 mg/L	Average Monthly Effluent Limitation	>40%
December 31, 2003	Total Phosphorus	0.14 mg/L	0.1 mg/L		40%

¹ The monitoring report listing the Total Nitrogen, Manganese and Total Phosphorus exceedances, incorrectly lists the period as "November 2003" instead of "December 2003."

California Environmental Protection Agency



**Ms. Maureen Stapleton
San Diego County Water Authority
Bradley Park Pipelines 3 & 4 Relocation
WDID No. 9 000001027
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Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. A serious violation is a waste discharge that violates the effluent limitation contained in the applicable waste discharge requirements for a Group I pollutant (i.e., Total Nitrogen, Total Phosphorus, and Manganese) by 40 percent or more. Therefore the Manganese Instantaneous Maximum Effluent Limitation exceedance, and the Total Nitrogen and Total Phosphorus Average Monthly Effluent Limitation exceedances are serious violations. Under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed for these alleged exceedances is \$9,000.

Water Code Section 13385(i)(1) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:

- Violates a waste discharge requirement effluent limitation.
- Fails to file a report pursuant to Water Code Section 13260.
- Files an incomplete report pursuant to Water Code Section 13260.
- Violates a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The Total Nitrogen Instantaneous Maximum Effluent Limitation violation, supported by the three serious violations alleged above results in the assessment of \$3,000, giving a subtotal of \$3,000 for the violation.

The total mandatory minimum penalty for all four alleged violations is \$12,000. Therefore, enclosed find Complaint No. R9-2004-0077, Administrative Civil Liability with Mandatory Minimum Penalties, for the amount of \$12,000 for violations of the effluent limits established by Order No. R9-2001-0096

Be aware that if the San Diego County Water Authority intends to waive its right to a hearing before the Regional Board, you or an authorized agent must sign and return the enclosed waiver form with a check for the amount of civil liability indicated in the Complaint by 5:00 p.m., Friday, April 2, 2004. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$12,000 as set forth in the Complaint.

If the San Diego County Water Authority does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on May 12, 2004, at the

California Environmental Protection Agency

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City of Laguna Beach Council Chambers, 505 Forest Avenue, Laguna Beach, California. The meeting is scheduled to begin at 9:00 a.m. In order for the Regional Board to fully consider any argument on your behalf, you should submit twenty copies of all documents, including exhibits, you intend to provide to the Regional Board by 5:00 p.m., Monday, April 19, 2004 as indicated in the enclosed *Submittal of Written Information Procedures*. Copies of material submitted will be forwarded to the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.

Please contact Frank Melbourn (858) 467-2973 or via email at melbf@rb9.swrcb.ca.gov if you have any questions concerning this matter. The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Sincerely,


JOHN H. ROBERTUS
Executive Officer

JHR:mpm:mja:ftm

Enclosure 1. ACL Complaint No. R9-2004-0077
 2. Waiver of Hearing Form
 3. Submittal of Written Information Procedures
 4. Hearing Procedures
 5. Monitoring Report, November 2003

Copy with
attachments to: 1. Sabine Knedlik, Regional Board
 2. Kathi Moore, Chief
 Compliance Office
 U.S. Environmental Protection Agency, M.S. WTR-7
 75 Hawthorne Street
 San Francisco, California 94105
 3. John Phillips, Regional Board

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Occurred Date	Violation Description	ID No.
12/09/2003	Total Nitrogen Instantaneous Maximum	163273
12/09/2003	Manganese Instantaneous Maximum	163275
12/31/2003	Total Nitrogen Average Monthly	163274
12/31/2003	Total Phosphorus Average Monthly	163272

Enforcement Description	ID No.
MPC	83924

File: 14-1027.02

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